



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

March 17, 1998

Captain Robert Taylor  
Amarillo Police Department  
City of Amarillo  
200 S.E. 3<sup>rd</sup> Avenue  
Amarillo, Texas 79101-1514

OR98-0735

Dear Captain Taylor:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 113296.

The Amarillo Police Department (the "department") received a request for two offense reports, referenced by numbers 92-95837 and 92-98441. In response to the request, you submitted to this office for review a copy of the information which you assert is responsive. You claim that the requested information is excepted from disclosure under section 552.108 of the Government Code. You also contend that offense report number 92-98441 is excepted from required public disclosure, "because the case involves a juvenile suspect who was involved in an incident prior to January 01, 1996." We have considered the exception and arguments you have raised and reviewed the submitted information.

Initially, we will address your arguments against disclosure of the offense report involving a juvenile.<sup>1</sup> Prior to its repeal by the Seventy-fourth Legislature, section 51.14(d) of the Family Code provided for the confidentiality of juvenile law enforcement records.<sup>2</sup>

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<sup>1</sup>The Office of the Attorney General will raise section 552.101 on behalf of a governmental body when necessary to protect third-party interests. Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987). Section 552.101 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision."

<sup>2</sup>We note that the Seventy-fourth Legislature repealed section 51.14 of the Family Code and replaced it with section 58.007 of the Family Code. The Seventy-fifth Legislature, however, amended section 58.007 once again to make juvenile law enforcement records confidential, effective September 1, 1997. Act of June 2, 1997, 75th Leg., R.S., ch. 1086, 1997 Tex. Sess. Law Serv. 4179, 4187 (Vernon).

Law enforcement records pertaining to juvenile conduct occurring before January 1, 1996 are governed by the former section 51.14(d), which was continued in effect for that purpose. Act of May 27, 1995, 74th Leg., R.S., ch. 262, § 100, 1995 Tex. Gen. Laws 2517, 2591 (Vernon). The document at issue pertains to juvenile conduct that occurred before January 1, 1996. Therefore, section 51.14(d) is applicable to offense report number 92-98441. Section 51.14(d) provides in pertinent part:

(d) Except as provided by Article 15.27, Code of Criminal Procedure, and except for files and records relating to a charge for which a child is transferred under Section 54.02 of this code to a criminal court for prosecution, the law-enforcement files and records [of a child] are not open to public inspection nor may their contents be disclosed to the public, but inspection of the files and records is permitted by:

- (1) a juvenile court having the child before it in any proceeding;
- (2) an attorney for a party to the proceeding; and
- (3) law-enforcement officers when necessary for the discharge of their official duties.

In Open Records Decision No. 181 (1977) at 2, this office held that former section 51.14(d) excepts police reports which identify juveniles or furnish a basis for their identification. *See also* Open Records Decision No. 394 (1983) at 4-5 (applying former Fam. Code § 51.14(d) to "police blotter" and related information). You do not indicate that the offense report at issue here relates to charges for which the department transferred the juvenile under section 54.02 of the Family Code<sup>3</sup> to a criminal court for prosecution, or that article 15.27 of the Code of Criminal Procedure<sup>4</sup> applies. Moreover, it does not appear that any of the exceptions to former section 51.14(d) apply to the requestor. *See* Act of May 22, 1993, 73d Leg., R.S., ch. 461, § 3, 1993 Tex. Gen. Laws 1850, 1852 (repealed 1995) (formerly Fam. Code § 51.14(d)(1), (2), (3)). In this case, section 51.14(d) makes offense report number 92-98441 confidential. Therefore, we conclude that the department must withhold the juvenile records at issue.

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<sup>3</sup>Act of May 25, 1973, 63d Leg., R.S., ch. 544, § 1, 1973 Tex. Gen. Laws 1460, 1476-77, *amended* by Act of May 19, 1975, 64th Leg., R.S., ch. 693, §§ 15-16, 1975 Tex. Gen. Laws 2152, 2156-57 (adding subsecs. (m), (j), (k), (l)), *amended* by Act of May 8, 1987, 70th Leg., R.S., ch. 140, §§ 1-3, 1987 Tex. Gen. Laws 309 (amending subsecs. (a), (h), (j)).

<sup>4</sup>Act of May 22, 1993, 73d Leg., R.S., ch. 461, § 1, 1993 Tex. Gen. Laws 1850-51.

We next consider the release of the remaining offense report under section 552.108 "the law enforcement exception." Section 552.108 of the Government Code provides in part:

(a) Information held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime is excepted from the requirements of 552.021 if:

(1) release of the information would interfere with the detection, investigation or prosecution of crime;

(2) it is information that deals with the detection, investigation, or prosecution of crime only in relation to an investigation that did not result in conviction or deferred adjudication; or

(3) it is information that:

(A) is prepared by an attorney representing the state in anticipation of or in the course of preparing for criminal litigation; or

(B) reflects the mental impressions or legal reasoning of an attorney representing the state.

....

(c) This section does not except from the requirements of Section 552.021 information that is basic information about an arrested person, an arrest, or a crime.

Gov't Code § 552.108. A governmental body claiming section 552.108(a)(2) must demonstrate that the requested information relates to a criminal investigation that has concluded in a final result other than a conviction or deferred adjudication.

You inform this office that offense report number 92-95837 is excepted from disclosure, "because the case has not been adjudicated and therefore has not resulted in a conviction or deferred adjudication against any person." Based on your arguments and submitted information, we find that you have shown the applicability of section 552.108(a)(2) to the requested information, since the investigation *did not* result in conviction or deferred adjudication.

We note, however, that you must provide the requestor with the basic front page offense report information from offense report number 92-95837, including a detailed description of the offense. Section 552.108(c) provides that section 552.108 does not except from disclosure "basic information about an arrested person, an arrest, or a crime." Front page offense report information is the public, basic information required to be disclosed.

*See generally Houston Chronicle Publ'g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.--Houston [14th Dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976); Open Records Decision No. 127 (1976). Therefore, we conclude that, except for basic front page information, offense report number 92-95837 may be withheld under section 552.108(a)(2) of the Government Code, though the department also has discretion to release all or part of this information that is not otherwise confidential by law.<sup>5</sup> Gov't Code § 552.007.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied on as a previous determination regarding any other records. If you have any questions regarding this ruling, please contact our office.

Yours very truly,

A handwritten signature in black ink, appearing to read "Sam Haddad". The signature is fluid and cursive, with a large initial "S" that loops around the first part of the name.

Sam Haddad  
Assistant Attorney General  
Open Records Division

SH/rho

Ref.: ID# 113296

Enclosures: Submitted documents

cc: Mr. Chuck Dunbar, SW IV  
Mendocino County Department of Social Services  
825 S. Franklin Street  
P.O. Box 1306  
Fort Bragg, California 95437  
(w/o enclosures)

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<sup>5</sup>In this instance, the requestor, a representative of the Mendocino County Department of Social Services, seeks the requested information apparently for an official purpose. Although some of the requested information may be excepted under the claimed section 552.108 discretionary exception, we note that, generally, it is the well-settled policy of this state that state agencies should cooperate with each other in the interest of the efficient and economical administration of their statutory duties. Attorney General Opinion H-683 (1975). The Open Records Act does not undercut that policy. Attorney General Opinion H-683 (1975). Although the department has discretion to transfer offense report number 92-95837, we are not aware of a statutory duty or right by the Mendocino County Department of Social Services to obtain this information. Gov't Code § 552.007.